



# Court Services and Offender Supervision Agency for the District of Columbia

*Office of the General Counsel*

**DIRECTIVE:** TBD

**SUBJECT:** STANDARDS OF EMPLOYEE CONDUCT

**EFFECTIVE DATE:** August 30, 1999

**APPROVED:** **Signed** \_\_\_\_\_  
John A. Carver, Trustee

## **I) PURPOSE AND SCOPE**

The purpose of this directive is to apprise employees of the Court Services and Offender Supervision Agency ("CSOSA" or "Agency") of many of the standards of conduct to which they are held. Other standards of conduct with which employees must comply include those issued by the United States Office of Government Ethics ("OGE"). While CSOSA is not yet a federal agency, and therefore not required to follow federal ethics regulations, the Trustee/Director has decided to adopt those regulations as policy.

The standards issued by this directive complement those issued by OGE. In this regard, unlike the OGE standards of conduct, they address situations unique to CSOSA and its employees. They are, however, by no means an exhaustive compilation of the standards to which CSOSA employees are held. Employees are therefore advised to conduct themselves in a professional and ethical manner at all times in accordance with all applicable federal and internal Agency standards.

The standards described in this directive, as well as those issued by OGE, apply to all employees of CSOSA, including employees of the Pretrial Services Agency.

## **II) ROLE OF ETHICS OFFICER**

CSOSA has a Designated Agency Ethics Official ("Ethics Officer") whose responsibility it is to coordinate and manage the Agency's ethics program. The Ethics Officer is also the Agency's General Counsel. His or her responsibilities include counseling employees regarding the application of the Agency's standards of conduct, as well as those issued by the OGE. Only conduct based upon the advice of the Ethics Officer or his or her designees, may be protected

from disciplinary action. Employees are therefore strongly encouraged to seek advice from the Ethics Officer, or his or her designee(s), prior to engaging in any conduct that may arguably violate these standards. In certain circumstances, the Ethics Officer will provide written opinions regarding the propriety of particular conduct brought to his or her attention. In all other cases, the Ethics Officer will offer verbal advice.

Disclosures made by an employee to CSOSA's Ethics Officer, or his or her designee(s), are *not* protected by an attorney-client privilege. Indeed, ethics officers are required by federal statute to report any information obtained relating to a violation of the United States criminal code. If an employee's conduct violates a criminal statute, reliance upon the advice of an ethics officer cannot protect the employee from prosecution. Such reliance may, however, be a factor in determining whether prosecution should proceed.

### **III) TOPICS ADDRESSED**

The standards described in this directive address the following topics:

- a) Personal conduct;
- b) Use of government property;
- c) Confidentiality of client records;
- d) Fund raising activity;
- e) Matters concerning conflicts of interest;
- f) Outside employment guidelines;
- g) Guidelines on seeking other employment;
- h) Post-employment guidelines;
- i) Public and confidential financial disclosure requirements;
- j) Guidelines for acceptance of travel funds from outside sources; and
- k) Procurement integrity guidelines.

### **IV) APPLICABLE STATUTES AND REGULATIONS**

#### **1) Statutes**

- a) 18 U.S.C. §§ 203, 205, 207-209 – Selected Criminal Conflict of Interest Statutes
- b) 5 U.S.C. § 552a – The Privacy Act
- c) 5 U.S.C. § 552 – The Freedom of Information Act
- d) 31 U.S.C. § 1353 – Acceptance of Travel and Related Expenses from Non-federal Sources
- e) 41 U.S.C. § 423 – The Procurement Integrity Act

#### **2) Regulations**

- a) 5 C.F.R. § 2634 – Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture
- b) 5 C.F.R. § 2635 – Standards of Ethical Conduct for Employees of the Executive Branch
- c) 5 C.F.R. § 735 – Employee Responsibilities and Conduct
- d) 41 C.F.R. § 101-20.3 – Conduct on Federal Property
- e) 48 C.F.R. § 3.104 – Procurement Integrity

## V) GENERAL POLICY

- 1) CSOSA expects its employees to conduct themselves in such a manner that their conduct on and off duty will not discredit themselves, the Agency, or the U.S. Government. In furtherance of this objective employees shall:
  - a) conduct themselves in a manner that creates and maintains respect for CSOSA and the U.S. government;
  - b) avoid any action which might result in, or create the appearance of, adversely affecting the confidence of the public in the integrity of the U.S. government (5 C.F.R. § 2635.101);
  - c) avoid conflicts of interest in matters that affect their financial interests;
  - d) comply with special rules to avoid conflicts of interest when seeking employment outside CSOSA (5 C.F.R. § 2635, Subpart F);
  - e) comply with applicable financial disclosure requirements (5 C.F.R. § 2634);
  - f) conform with procurement integrity regulations (48 C.F.R. § 3.104); and
  - g) immediately report any violation or apparent violation of these standards to management (5 C.F.R. § 2635.101).
- 2) Failure by employees to follow applicable federal regulations or this policy could result in appropriate disciplinary action, up to and including removal (5 C.F.R. § 2635.106).

## VI) DEFINITIONS

- 1) Conflict of Interest - a conflict between public interests and the private interests of the individual involved.
- 2) Criminal Matters - involvement with a federal, state, or local law enforcement agency or with inmates, parolees, probationers, pretrial releasees, and supervised releasees.
- 3) Employee - any person employed by CSOSA, including but not limited to, interns and volunteers.
- 4) Employment - any form of employment or business relationship, compensated or uncompensated, involving the provision of personal services by the employee, whether to be undertaken at the same time as or subsequent to current federal employment. Employment includes but is not limited to personal

services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, or Trustee/Director.

- 5) Client - a parolee, probationer, or any individual under supervised release or pretrial supervision.
- 6) Former Client - any parolee, probationer, or supervised releasee for whom less than one year has elapsed since his or her release from supervision, or any pretrial releasee for whom less than one year has elapsed since disposition of his or her criminal charge(s).
- 7) Supervision Officer - any parole officer, probation officer, community supervision officer, or pretrial supervision officer.
- 8) Participate - to take action as an employee through decision, approval, disapproval, recommendation, rendering of advice, or investigation.
- 9) Particular Matters - matters that involve deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons. The particular matters covered by this subpart include a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, or arrest.
- 10) Negotiation - discussion or communication with another person, or such person's agent or intermediary, mutually conducted with a view toward reaching an agreement regarding possible employment with that person.
- 11) Fund Raising - the raising of funds for a non-profit organization, other than a political organization, through: (a) solicitation of funds or sale of items; or (b) participation in organizing or directing an event by an employee where any portion of the cost of attendance or participation may be taken as a charitable tax deduction by a person paying that cost.
- 12) CSOSA Property - any property owned, leased, controlled, or operated by CSOSA.

## **VII) DISSEMINATION**

- 1) Procedures for Dissemination. The Associate Director, Office of Human Resources, is responsible for ensuring that these Standards of Employee Conduct are distributed to each CSOSA employee. In the case of the Pretrial Services Agency, that responsibility lies with the Director, Office of Human Resources. New employees shall be given copies of the standards at the time of appointment. Any updated or revised versions shall also be disseminated by the Office of Human Resources. Such employees are required to verify receipt of the Standards of Conduct at the time of appointment by signing an acknowledgment form. Current employees shall also do so at the time the standards are disseminated. Receipt of any updated or revised versions shall be acknowledged by signature. It shall be the responsibility of the Office of Human Resources to ensure that signatures are obtained from each

employee. In the case of contractors, volunteers, and interns, it shall be the responsibility of the contracting official or supervisor, whichever is applicable, to ensure that such persons receive and acknowledge receipt of copies of these standards and that the standards are incorporated into every contract. Signed acknowledgment forms shall be maintained in employees' official personnel folders.

- 2) Training. Both the Director of Training and the Ethics Officer shall ensure that all CSOSA employees, including supervisors, receive annual training on all applicable standards of conduct, including those issued by OGE.

## **VIII) PERSONAL CONDUCT (5 C.F.R. § 2635)**

- 1) It is essential to the orderly operation of the Agency that employees conduct themselves in an ethical and lawful manner at all times. Employees are therefore guided by the following standards of conduct in conducting their daily activities while on and off duty:

- a) Gifts Between Officers and Clients

A CSOSA employee may not offer or give to a client, former client, any member of his or her family, or to any person known to be associated with a client or former client, any article, gift, favor, or personal service of any value. Neither shall an employee accept any article, gift, favor, or personal service of any value from a client, former client, any member of his or her family, or from any person known to be associated with a client or former client.

- b) Illegal Drugs

The use and/or possession of illegal drugs or narcotics, or the abuse of any drug or narcotic, including prescription medicines, by employees is strictly prohibited at all times. This prohibition shall not apply in cases where the use of a drug or narcotic is prescribed by a licensed physician.

- c) Alcohol Consumption

- (1) The use of alcoholic beverages or being under the influence of alcohol while on official duty is prohibited. An employee is on official duty: (1) during his or her tour of duty, including during authorized overtime; and (2) during workplace social functions. The Trustee/Director may, however, authorize the use of alcoholic beverages at workplace social functions upon his or her discretion (see Section IX. 8., below).

- (2) For purposes of this provision, an employee will not be considered to be on official duty while he or she is either en route to or from an out-of-town destination, or is attending an out-of-town luncheon or reception, *as long as* said employee will not be performing any official duties following said travel, luncheon, or reception.

- (3) Supervisors who have reasonable suspicion that an employee is impaired by alcohol and unable to perform the duties of his or her position should immediately contact Employee and Labor Relations, Office of Human Resources, to receive advice and guidance regarding the appropriate actions and documentation required to support a disciplinary action. Employees who are determined to be impaired by alcohol and unable to perform the duties of their position will be subject to disciplinary action.

d) Illegal Activities

Illegal activities on the part of any employee, in addition to being unlawful, reflect on the integrity of the Agency and betray the trust and confidence held by the public. Employees are therefore expected to obey the letter and spirit of the law at all times. Thus should an employee be charged with, arrested for, or convicted of any felony, misdemeanor, including driving while intoxicated or driving under the influence, he or she must immediately notify the Ethics Officer by providing a written explanation of the offense. Traffic violations resulting in fines under \$250 shall be exempt from the reporting requirement.

e) Other Interaction With Clients

- (1) Supervision officers are expected to maintain a professional relationship with parolees, probationers, and pretrial releasees under their supervision. Such officers are therefore prohibited from showing partiality toward or becoming romantically, physically, sexually, or financially involved with their respective clients, or the families of their clients and former clients. Supervision officers are, of course, encouraged to play a supportive role toward their clients for purposes of the successful completion of supervision or, in the case of pretrial releasees, successfully meeting the conditions of release.
- (2) Strictly as a show of hospitality, supervision officers may accept an offer of a beverage or snack during home visits with clients. Such officer may not, however, accept or share a meal with the client and/or his or her family or friends. Socializing under these circumstances is absolutely prohibited.
- (3) Upon prior approval, supervision officers may attend special occasions involving their clients as a show of support.

f) Misuse of Official Position

Employees of CSOSA are in the unique position of having access not only to information in the custody of the Agency, but also to information in the custody of other law enforcement entities. For that reason, it is important to understand that CSOSA employees are prohibited from using their official position for purposes of obtaining information from any source, including outside sources, for the employee's benefit or the benefit of another. Thus, for example, it is improper for an employee to use his or her position in order to obtain information from a police department concerning the

status of a pending criminal charge for a friend or relative. (5 C.F.R. § 2635.703). In addition, CSOSA officials and staff are advised that much of the personal information to which we have access, whether pertaining to other employees or clients, is covered by the Privacy Act. Whether such information is releasable is governed by the Privacy Act and the Freedom of Information Act. Violations under these acts may result in disciplinary action. Willful violation may result in civil and/or criminal liability.

g) Just Debts

Failure on the part of any employee, without good reason and in a proper and timely manner, to honor debts acknowledged by him or her to be valid or reduced to judgment by a court, or to adhere to satisfactory arrangements for the settlement thereof, may be cause for disciplinary action. Such debts include, but are not limited to, federal and state taxes, federally-backed student loans, and court-ordered child support. Depending on the circumstances, an employee who receives a legally valid garnishment order may be subject to disciplinary action. (5 C.F.R. § 2635.809).

h) Reports of Violation and Official Investigation

Every employee is required immediately to report to management any violation or attempted violation of any law, regulation, or provision of this policy based upon a reasonable good faith belief that such violation has occurred. Employees who make reckless unsubstantiated, and/or knowingly false reports may be subject to disciplinary action.

Employees are required to cooperate fully with an investigation of employee misconduct. Such cooperation shall include, but is not limited to, providing any and all pertinent information relating to the charges and responding truthfully to questions. In certain situations, employees may be requested to provide a signed affidavit. Any employee who fails to cooperate fully or who hinders an investigation is subject to disciplinary action, up to and including removal.

**IX) USE OF GOVERNMENT PROPERTY (5 C.F.R. §§ 735, 2635; 41 C.F.R. § 101-20.3)**

1) General Policy

Government property is to be used for official business only. Government property includes, but is not limited to, computers, printers, fax machines, telephones, copiers, calculators, and basic office supplies. CSOSA employees are permitted, however, to make personal use of most government property as long as such use is “de minimis.” De minimis use includes such use of the property that the cost to the government is negligible. For example, occasional use of the telephones, computers, fax machines, and copiers is at negligible cost to the government. While limited use of government property for personal

non-commercial business is permitted, CSOSA employees are expected to conduct personal business on their own time and not on official time. Employees are encouraged to obtain advice from the Ethics Officer with regard to questions concerning the scope of this policy.

2) Use of Copiers, Faxes, Etc.

Employees need not provide their own paper for use of the copier or fax machine, unless the cost to the Agency would be greater than negligible. For example, an employee who wishes to copy 100 copies of a flier would be misusing government property. An employee may, however, make a copy of a personal tax return or fax a real estate contract for his/her private home or an agent.

3) Long Distance Telephone Calls

Personal use of the telephone for long-distance calls is prohibited unless made with a personal credit card or pre-paid telephone card. For purposes of this policy, long-distance does *not* include calls of a short duration made to locations in the local commuting areas for limited purposes. The nature of such calls shall be limited in purpose to those necessary to address matters of high importance that cannot be addressed after hours, including but not limited to: (1) making doctors appointments or similar arrangements; (2) making arrangements concerning child care, automobile repairs, home repairs, etc.; or (3) making commuting arrangements with spouses, significant others, or other family members. In no event may government phones be used to access recreational services that charge fees for their use, such as most “900” numbers.

4) E-mail and Internet

Employees are prohibited from using the E-mail system for purposes of advertising items for sale, or promoting the interests of private groups or associations, etc. Where available, bulletin boards posted in the common areas of most divisions may be used for this purpose. Employees may, however, occasionally use the E-mail system for personal messages, as long as such use is not excessive. Similarly, employees are permitted to use the Internet for personal purposes as long as such use is not excessive and is done on personal time. If access to an Internet site results in an additional charge to the government, the use is prohibited. Such sites are generally identified when accessed by the user. Employees are also strictly prohibited from accessing any and all pornographic and other adult entertainment Internet sites.

5) Government Travel and Purchase Cards

Employees who have been issued government credit cards, including “travel cards” and “purchase cards,” may only use such cards for approved business-related purposes and are prohibited from using such cards for personal use. Travel for official business must be approved in advance of departure. In addition, employees are advised that reimbursements for travel expenses are limited to those expenses specified on the approved travel authorization. Pursuant to federal statute, employees who file false claims for reimbursement forfeit any reimbursement and may be subject to criminal penalties.



Employees are instructed to contact the Management and Administration Division for specific guidelines on using government credit cards.

6) Commercial Activities on CSOSA Property

Employees are prohibited from conducting commercial activities using CSOSA property, including CSOSA buildings and vehicles. Commercial activity includes, but is not limited to, selling, displaying, distributing, and advertising items for sale. Personal notices for the sale of items may be posted on bulletin boards designated for this purpose.

7) Gambling, Football Pools, Etc.

Employees are prohibited from gambling using CSOSA property and while on official duty (see Section VIII. c., above, for definition of official duty). CSOSA property includes, but is not limited to, CSOSA buildings, vehicles, computers, copiers, telephones, etc. This policy applies to any type of gambling activity, including football and basketball pools. (5 C.F.R. § 735.201).

8) Alcoholic Beverages and Drugs

CSOSA employees are prohibited from being on any CSOSA property, or using any CSOSA vehicle or privately owned vehicle while on duty, while under the influence of, using, or possessing any narcotic drug. This prohibition shall not apply in cases where use of a drug has been prescribed by a licensed physician. Employees are also prohibited from being on any CSOSA property, or using any CSOSA vehicle or privately owned vehicle while on duty, while under the influence of alcoholic beverages. The use of alcoholic beverages on CSOSA property is prohibited unless authorized by the Trustee/Director, or his or her designee.

**X) CONFIDENTIALITY (5 U.S.C. §§ 552, 552a)**

CSOSA employees have access to information of a personal nature concerning staff, parolees, probationers, and other individuals. Due to the personal nature of such information, employees are prohibited from disclosing or releasing any such information *unless* as required in the performance of an employee's duties or upon specific authorization from someone with the authority to release such information. Persons having authority to release official information include:

- a) the Trustee/Director;
- b) the Deputy Director;
- c) the General Counsel;
- d) the Associate Director, Legislative, Intergovernmental, and Public Affairs;
- e) the Counselor to the Trustee/Director;
- f) the Associate Director, Office of Human Resources;

- g) the Director, D.C. Pretrial Services Agency;
- h) the Director of Human Resources, D.C. Pretrial Services Agency;
- i) the Director, Probation Services; and
- j) the Director, Parole Supervision Services.

## **XI) FUND RAISING (5 C.F.R. § 2635; 41 C.F.R. § 101-20)**

### **1) General Policy**

Soliciting and/or collecting money for outside organizations or charities on government property is prohibited, except for activities related to the Combined Federal Campaign. Thus, soliciting funds for Girl Scout Cookies and school fund drives is prohibited on CSOSA property.

However, fund raising for the sole benefit of employees *is* permissible under certain circumstances (see Part 3 below). In no event may an employee be coerced in any way to make any contribution or purchase any item. Nor is it permissible that any contribution amount be specified. Fund raising activities and events must be of minimal cost to government time and resources. In this regard, employees engaging in fund raising shall be mindful of their responsibility to protect and conserve government property and to use official time to perform their official duties. (5 C.F.R. § 2635.808).

### **2) Fund Raising On Government Property**

a) Fund raising activities may be conducted on government property as long as employees do not:

- (1) use official time;
- (2) use their official titles, credentials, or badges to solicit;
- (3) use government property, except for such office equipment as computers, printers, and copy machines, provided there is minimal cost to the government;
- (4) use the name of the Agency;
- (5) solicit funds from a subordinate; or
- (6) collect from a prohibited source, which is anyone who:
  - (a) is seeking official action by CSOSA;
  - (b) does, or seeks to, do business with CSOSA;
  - (c) is regulated or supervised by CSOSA; or
  - (d) has interests that may be substantially affected by the performance or non-performance of the employee's official duties.

### **3) Exceptions to General Policy**

- a) Passive Collection of Non-monetary Items. Collection of items such as clothes or canned foods is permitted on government property, provided the request for donations is made only through general

correspondence (such as a posted notice) and that donations are to be placed in a centrally located drop box.

- b) Co-worker Emergency Fund. Employees may establish an emergency fund to help a co-worker and his or her family by establishing a bank account in the employee's name. Contributions must be in the form of a check or money order. Cash contributions are not permitted. Such fundraising may be done only when the employee has endured a financially damaging tragedy, such as the death of a spouse or child, loss of a home, or other natural disaster. Supervisory and management officials are prohibited from soliciting contributions. Prior written approval must be obtained from the Ethics Officer to establish such a fund. The Trustee/Director has the authority to waive the provisions of this policy for purposes of establishing emergency funds for former employees.

## **XII) CONFLICTS OF INTEREST (18 U.S.C. § 208; 5 C.F.R. § 2635, Subparts D & E)**

- 1) CSOSA employees should avoid situations in which their official actions affect or appear to affect their private interests, whether those interests are financial or non-financial. Employees are specifically prohibited from taking official action in any matter that affects the financial interests of:
  - a) the employee;
  - b) a spouse;
  - c) a minor child;
  - d) a general partner of an employee;
  - e) an organization for which the employee serves as an officer, director, Trustee/Director, or employee; or
  - f) a person or an organization with whom the employee is negotiating for or has an arrangement concerning prospective employment.
- 2) Waivers

The Trustee/Director may grant an employee a waiver from disqualification if the interest is found not to be so substantial as to affect the employee's service to the Agency. An employee who has a conflict may seek recusal from the matter creating the conflict, sell the asset, or seek a waiver. Certain interests, such as those in diversified mutual funds, are exempt from coverage by this provision. Employees should consult the Ethics Officer for advice as to whether a particular interest or holding is exempt.

- 3) Impartiality

Employees are prohibited from participating in matters which would lead a reasonable person with knowledge of the relevant facts to question his or her impartiality, *unless* he or she has first notified the Ethics Officer of the appearance problem and received authorization from the Ethics Officer to participate in the matter. Such determinations as to the appearance of impartiality are rarely clear-cut:

what may appear to an employee to be ethical conduct may not be viewed in the same way by someone outside the Agency. Employees are therefore strongly encouraged to seek advice *prior to* engaging in conduct that might cause their impartiality to be questioned. Employees who believe their impartiality in a particular matter may be questioned should notify the supervisor responsible for assigning the matter. The supervisor shall then raise the issue with the Ethics Officer.

### **XIII) SEEKING OTHER EMPLOYMENT (18 U.S.C. § 208; 5 C.F.R. § 2635, Subpart F)**

- 1) Any Agency employee who wishes to seek employment with persons who otherwise would be affected by the performance or nonperformance of the employee's official duties are required to disqualify themselves from participating in any particular matter that will have a direct and predictable effect on the financial interests of the person or entity with whom he or she is negotiating.
- 2) When an employee is not actually negotiating for employment, but lacks impartiality in dealing with a prospective employer, the employee should disqualify himself or herself. An Agency employee who is aware of, or should be aware of, the need to disqualify himself or herself from participating in a particular matter should notify the person responsible for his or her assignments. If the employee is responsible for his or her own assignments, he or she should take steps necessary to ensure that he or she does not participate in the matter.

### **XIV) OUTSIDE EMPLOYMENT (5 C.F.R. § 2635)**

- 1) General Policy
  - a) Employees are free to engage in outside employment although there are limitations as to the type of outside employment employees may obtain. Generally, employees are prohibited from:
    - (1) engaging in outside employment that involves criminal matters, unless approved by the Ethics Officer and the Trustee/Director;
    - (2) engaging in outside employment that requires the use of a firearm, except for military reserve duty and service in the National Guard;
    - (3) engaging in outside employment that creates an apparent or real conflict of interest;
    - (4) engaging in outside employment that creates a direct or indirect financial interest that could be affected by the performance or nonperformance of his or her government duties and responsibilities; and
    - (5) testifying as an expert witness, other than on behalf of the U.S., in any legal proceeding in which CSOSA or the U.S. government is a party or has an interest, unless approved by the Agency.
- 2) Procedures
  - a) Any employee who wishes to engage in any employment outside CSOSA must obtain prior written approval for each activity. Approval must be sought using forms available from OGC. Each

request will be reviewed by the Ethics Officer, as well as the applicant's supervisor. The Trustee/Director has final authority to approve or disapprove requests for outside employment.

- b) Employees wishing to serve as officers or directors of any organization, except social, religious, or recreational organizations, are required to seek prior approval, whether or not such services is for compensation.

### 3) Rules for Attorneys

- a) CSOSA employees who are licensed to practice law are prohibited from doing so on behalf of any other person or entity, for compensation, without the written approval of the Trustee/Director. CSOSA employees may, however, perform uncompensated legal services outside CSOSA if:

- (1) the work does not violate 18 U.S.C. §§ 203 and 205;
- (2) the work does not involve criminal matters; and
- (3) the Ethics Officer has approved the request.

## **XV) POST-EMPLOYMENT (18 U.S.C. § 207; 5 C.F.R. § 2637)**

- 1) Federal employees who leave federal service are required to comply with certain statutory and regulatory employment restrictions. There is a general restriction on the representation of parties in matters related to their federal employment. This statute and the implementing regulations are not designed to bar an individual from accepting employment with any private or public employer after his or her service at the Agency. Certain acts, however, that are detrimental to public confidence in the government are prohibited.
  - a) Lifetime Prohibition. All former CSOSA employees are prohibited from representing another party before the federal government on a particular matter involving specific parties in which they participated personally and substantially while working for CSOSA. This prohibition does not apply to an appearance or communication involving purely social contacts, a request for purely factual information, or the supplying of such information.
  - b) Two-Year Prohibition. After leaving the Agency, a former employee is restricted from acting as a representative on a particular matter for which the employee had official responsibility, rather than personal participation, for a period of two years. The restriction applies if the former employee knew, or reasonably should have known, that the matter was pending under his or her official responsibility during his or her last year of government service.
  - c) One-Year Prohibition. Former senior level employees are restricted from communicating with an employee of the Agency on behalf of another person on a matter in which that person seeks official action with the intent to influence the Agency for a period of one year. This ban only applies to Executive Schedule or SES level 5 and 6 employees.

**XVI) PUBLIC FINANCIAL DISCLOSURE (5 C.F.R. § 2634)****1) Policy**

Federal law requires employees occupying certain high-level positions to report annually their financial interests and outside business activities to ensure against any actual or potential conflicts of interest. Such reports are available to the public.

**2) Application**

The following employees are required by federal regulation to file public financial disclosure reports:

- a) Each officer or employee, including a special government employee as defined in 18 U.S.C. 202(a), whose position is classified above GS-15 of the General Schedule prescribed by 5 U.S.C. § 5332, or the rate of basic pay for which is fixed, other than under the General Schedule, at a rate equal to or greater than 120% of the minimum rate of basic pay for GS-15 of the General Schedule;
- b) the Ethics Officer; and
- c) any employee who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policy-making character (unless excluded by applicable regulation).

**3) Report Form, Filing, and Maintenance**

The Office of Government Ethics has prescribed the use of Standard Form 278 for purposes of filing financial disclosure reports. Each employee designated in Section 2, above, must complete an SF 278. In the case of incumbents who have served in a covered position for more than 60 days, reports shall be filed on or before May 15 of the succeeding year. New employees shall file reports within 30 days of assuming their covered position. Forms shall be issued to all covered employees. Reports shall be filed with the Ethics Officer. Completed reports shall be retained by the Ethics Officer. Individual personnel files are not appropriate for this purpose.

**4) Review and Retention of Reports**

The Ethics Officer shall be responsible for serving as an intermediate reviewer for reports required to be filed under this policy. All reports shall be reviewed within 60 days after the date of filing. The Ethics Officer shall examine the report to determine that the report meets federal

requirements. Upon determining that the report meets such requirements, the Ethics Officer shall certify it by signature and date. The report will then be forwarded to the Trustee/Director for review, who will then certify by signature and date that it is complete and complies with applicable laws and regulations.

#### 5) Access to Public Reports

The Agency is required to make reports filed under this policy available to any person who submits a written application under Agency procedure. Any such report shall be made available to the public for a period of six years after receipt, after which it will be destroyed, unless needed for an on-going investigation. In no event may any person obtain a financial disclosure report for unlawful purposes, commercial purposes, or any other purpose so designated under federal regulation.

#### 6) Penalties

Penalties and remedial action may be taken in the event that an individual required to file a public financial disclosure report either fails to file a report, falsifies information, or files late. The Trustee/Director is required to refer to the Attorney General the name of any individual reasonably believed to have willfully failed to file a report or provide information required to be filed, or to have willfully falsified information required to be reported. An individual may be criminally prosecuted for supplying false information on any report. In addition, the Attorney General may bring a civil action against an individual, penalties for which may be assessed up to \$10,000.

### **XVII) MANDATORY CONFIDENTIAL FINANCIAL DISCLOSURE (5 C.F.R. § 2634)**

#### 1) Policy

Federal law requires employees occupying certain sensitive positions at the GS-15 level and below to report, annually, their financial interests and outside business activities to ensure against any actual or potential conflicts of interest. Unlike public financial disclosure requirements applicable to higher-level government officials, financial disclosure information for these individuals remains confidential.

#### 2) Application to CSOSA Employees

a) CSOSA employees at the GS-15 level or below whose positions require personal and substantial participation through decision or the exercise of significant judgment in the following positions are covered:

- (1) All CSOSA contracting and procurement officers, such as contract specialists, and contracting officer's technical representatives;

- (2) Persons involved in the administration or monitoring of grants, subsidies, licenses, or other federally-conferred financial or operational benefits;
  - (3) Persons involved in activities in which the final decision or action will have a direct and substantial economic effect on the interests of any non-federal entity, including but not limited to:
    - (a) Controllers;
    - (b) Senior budget analysts;
    - (c) Contract specialists;
    - (d) Facilities/project managers; and
    - (e) Information and Technology staff.
  - (4) Persons required to report because CSOSA concludes the employee's duties and responsibilities could involve a real or apparent conflict of interest, including but not limited to:
    - (a) Non-SES Associate Directors;
    - (b) Assistant General Counsels; and
    - (c) Deputies to Associate Directors.
- b) Partial-Year-in-Positions and Initial Reports
- (1) An individual who holds a partial-year-in-position and who performs the duties of that position for a period in excess of 60 days during the 12 month period ending September 30, including more than 60 days in an acting capacity, must file a confidential report on or before October 31 immediately following that period (see Section c. below).
    - (a) For new entrants, a confidential report must be filed no later than 30 days after assuming a new position as described above.
    - (b) No report is required if the individual has, within 30 days prior to assuming his or her position, left another position and has previously satisfied the reporting requirements applicable to that position.
- c) Report Form, Filing, and Maintenance

The Office of Government Ethics has prescribed the use of Standard Form 450 for purposes of confidential financial disclosure requirements. The forms shall be issued to all supervisors for dissemination to their respective covered employees. Processing of the forms must be completed by October 31. Each employee designated in Section 2 above must complete an SF 450. If additional forms are needed, they may be obtained from the Ethics Officer. Completed reports shall be retained by the associate director for each division. In the case of the Office of the General Counsel, that responsibility shall belong to the General Counsel. In the case of the Pretrial Services Agency, the Director of Human Resources shall be responsible for retaining completed forms.



d) Review and Retention of Reports

(1) The direct supervisor of each covered employee is responsible for reviewing the report of his or her respective employee(s). This ensures that the reviewer, who has knowledge of the filer's work assignments, is able to determine what might pose a conflict. The reviewer must sign each report reviewed in the block marked "Signature of Supervisor/Other Intermediate Reviewer." The signature of the *reviewer's* supervisor is not required. Once the supervisor has received all reports, he/she must submit a certification to the Ethics Officer containing:

- (a) a statement that all reports have been reviewed and collected;
- (b) a list of the name, title, and grade of all covered employees;
- (c) the date the review was completed on each report;
- (d) the total number of filers; and
- (e) the name, status, and anticipated review date of any incomplete reports.

(2) The certifications shall be retained by the Ethics Officer for audit purposes.

e) Exclusion from the Reporting Requirements

Any employee who believes his or her position has been improperly determined to be one which requires the submission of a confidential disclosure report may seek a review of the designation by submitting a written request to the Trustee/Director within 30 days after receiving the notification to file. The determination of the Trustee/Director is final.

f) Confidentiality

The financial disclosure reports discussed in this part are confidential and required to be withheld from the public. The Agency has no discretion with respect to this issue. These reports and the information they contain are exempt from being released to the public under the Freedom of Information Act. Thus, CSOSA personnel may not publicly release the reports or the information they contain, except pursuant to a court order, or as otherwise provided under applicable provisions of the Privacy Act. Access to the information contained in these reports is limited to staff persons who require such information to complete official duties.

g) Penalties

Penalties and remedial action may be taken in the event that a reporting individual fails to file a confidential financial disclosure report, falsifies information, or files late. An individual may be prosecuted under criminal statutes for such actions. The Attorney General may bring a civil action against an individual for violation of these requirements. Civil penalties may be imposed in accordance with applicable law or regulation.

**XVIII) ACCEPTANCE OF TRAVEL FUNDS FROM OUTSIDE SOURCES (31 U.S.C. § 1353; 41 C.F.R. § 304)****1) General Policy**

CSOSA may accept payment from a non-Federal source (or authorize an employee to receive such payment on its behalf) for official travel to a meeting or similar function. Acceptance must be in accordance with CSOSA procedure. This policy covers only the use of outside funding for official travel. If an employee is accepting travel funds in his or her private capacity, the Ethics in Government Act, federal standards of conduct, and the criminal conflict of interest statutes may apply. In these situations, prior authorization to accept funds is not formally required. It is strongly suggested, however, that the employee obtain an opinion from the Ethics Officer prior to accepting travel funds in his or her *private* capacity to avoid the risk of criminal sanctions.

Employees accepting travel funds from outside sources should also be aware of the Standards of Ethical Conduct for Employees of the Executive Branch (5 C.F.R. § 2635), including the subparts pertaining to gifts from outside sources (5 C.F.R. § 2635.200), and accepting compensation for teaching, speaking and writing (5 C.F.R. § 2635.807).

**2) Definitions****a) Official capacity means an employee is:**

- (1) Acting as an official representative of CSOSA;
- (2) Attending training during a period when the employee is partially or wholly on duty;
- (3) Attending training or a meeting for which CSOSA would normally pay for all or part of the expenses; or
- (4) Attending an event related to his or her official duties, while on travel status.

**b) Official travel means:**

- (1) Travel authorized by CSOSA for employees serving in an official capacity; or
- (2) Attendance at formal training.

- (a) In recognition of the rate of growth in many fields of expertise of interest to CSOSA, and the objective of promoting the professional growth of CSOSA employees, reviewing officials are encouraged to define broadly the terms "official capacity" and "official travel" to allow CSOSA and its employees to take advantage of educational opportunities.

**c) Private capacity means the employee is accepting funds in an individual capacity, separate from any CSOSA involvement.**

d) Formal training means:

- (1) The event is a training session where the employee will be wholly or partially on duty; or
- (2) Training for which CSOSA would usually cover expenses.

e) Tax-exempt organization means an organization which is tax exempt under 26 U.S.C. § 501(c)(3).

3) Requirements for Accepting Outside Funding

a) CSOSA may accept funding from outside sources for official travel purposes only if the funding:

- (1) Is for employee attendance at a meeting or similar function that he or she will be attending in an official capacity;
- (2) Comes from a tax-exempt organization, is incident to formal training, and the training is in a non-federal facility; or
- (3) Comes from a foreign government for travel entirely outside of the United States, where the employee will be acting in an official capacity, subject to applicable regulation.

b) Only reasonable means of travel and accommodations may be approved by authorizing officials. Approval may be given for travel funding that is in excess of CSOSA travel limitations, provided that the travel furnished is comparable in value to other similarly situated individuals attending the event. An employee may not, however, receive funding for airline travel in First Class or Business Class.

4) Authorization to Accept Outside Funds

a) Requests. CSOSA must authorize all official travel for its employees provided from sources outside of the federal government before the travel takes place. To seek such authorization, employees must submit a "Request for Approval of Travel Through Outside Source Funding" available from OGC. This authorization process is required in addition to authorization generally required for official travel. Listed below are the officials who must authorize outside funding for travel. Each official who approves the travel shall forward the form to the next appropriate office. If any official disapproves, he or she shall return the form to the employee and explain the reason(s) for disapproving the request.

- (1) Travel Within the United States. The Deputy Director may approve official travel within the 50 states. The employee must get authorization from his or her immediate supervisor.

- (2) Travel To a Foreign Nation. Only the Trustee/Director may approve travel between the United States and a foreign nation. Such costs must be paid by the United States. Travel within a foreign nation or between foreign nations, however, may be funded by an outside source. The employee must get authorization from the officials referenced in subsection (1) above *and* the Trustee/Director.
- (3) Ethics Review. Outside funding may only be accepted after review and written recommendation by the Ethics Officer to determine whether there is any conflict of interest. At any point in the authorization process, staff may contact the Ethics Officer with questions regarding the authorization.

#### 5) Conflict of Interest Analysis

- a) In determining whether to approve outside travel funding, the Ethics Officer shall determine whether a reasonable person with knowledge of all the relevant facts would question CSOSA's integrity for accepting the funding from an outside source.
- b) Reviewing officials shall be guided by, but not limited to, the following factors:
  - (1) The identity of the non-Federal source;
  - (2) The purpose of the meeting or function;
  - (3) The identity of the other expected participants;
  - (4) Any matter the source has pending with the Agency;
  - (5) The employee's role in such matter;
  - (6) The monetary value of the travel benefits;
  - (7) Any issue which arises due to CSOSA's mission, including conflicts which may arise out of accepting funding from other law enforcement agencies; and
  - (8) Any issue which arises due to the status of a client under the supervision of CSOSA or the Pretrial Services Agency.
- c) Authorization shall not be granted if it is found that the source of the funding, or the event to be attended, discriminates based on sex, race, religion, color, disability or national origin, or if the source or the event advocates the violent overthrow of the United States government.
- d) Authorization for a source of funding or an event may be denied for a finding of an actual or apparent conflict of interest. Based on a finding of such a conflict, officials may deny authorization to attend the entire event or impose limits on travel and attendance to avoid the conflict.

#### 6) Types of Travel Permissible Using Outside Funding

- a) There are only two types of official travel that may be authorized to be funded by outside sources. The employee must indicate the type of travel on the appropriate form. To be authorized, travel must meet all of the requirements for that type of travel.

(1) Travel in Employee's Official Capacity. This is the most common type of travel. CSOSA may accept funding from a non-federal source (i.e. any source that is not the United States government) sponsoring or co-sponsoring an event. The employee must be authorized to attend in an official capacity on behalf of the Agency. No conflict of interest may exist which would disqualify the source of the funding.

(2) Travel Funded by a Tax-Exempt Organization

- (a) This type of travel may be used only for the limited situations when:

- (i) The organization is tax exempt under 26 U.S.C. § 501(c)(3);
- (ii) The purpose of the travel is to attend training in a non-government facility;
- (iii) The training is considered "formal", that is, the event is a training session where the employee will be wholly or partially on duty, or is training for which the Agency would normally cover expenses;
- (iv) The tax-exempt organization is not disqualified because of a conflict of interest; and
- (v) The funding is not a reward for services to the tax exempt organization prior to the training.

- (b) Any employee who is required to file annual financial disclosure reports must report any funding received under this section on either the Public Financial Disclosure Report for Executive Branch Personnel, Form SF-278, or the Confidential Financial Disclosure Report for Executive Branch Personnel, Form SF-450.

7) Travel for Spouses

Receipt of funding for travel for an employee's spouse is considered a benefit to the employee and therefore, should be noted on the request form under, "Description and estimated cost of benefits provided." Approval will be granted for an employee to accept funding for the employee's spouse to accompany the employee only if:

- a) The employee is to be acknowledged with an established award or honor;
- b) The spouse will substantially assist the employee in carrying out his or her duties;
- c) The spouse will participate in substantive programs related to the Agency's programs and operations; or
- d) The spouse's presence is required for foreign diplomatic reasons.

Even if all of the above conditions are met, the authorizing official may deny the request if he or she believes there is an appearance of impropriety. The fact that an invitation was extended to the spouse, even if other spouses will be in attendance, is not enough to establish the need to authorize the spouse's attendance.

#### 8) Solicitation Prohibited

It is improper for an employee to solicit travel funds in any situation, including solicitation for themselves, spouses, or other employees.

#### 9) Procedures for Accepting Funds

a) Once authorization for travel using outside funding has been received, the employee shall so inform the funding source and notify the Controller. If all conditions are met, the Agency shall accept funding on behalf of the employee.

b) Acceptable types of payments are:

(1) Cash payments, which include checks, money orders, and similar forms of payments.

The traveler may never personally accept payments of cash or checks for official travel;

(2) Payments-in-kind, which include tickets, transportation, and other similar services. The traveler may accept payments-in-kind if he or she has received prior authorization.

Both types of payments should be made out to "Court Services and Offender Supervision Agency" and should reference the employee's name that received the travel.

c) Copies of request forms should be attached to all other necessary travel documents.

d) If funding is to be received from more than one source, the employee must seek separate authorization for each source.

e) Since the employee will be acting in an official capacity on behalf of the Agency, CSOSA may fund any excess expenses within the limitations set by regulations and policy (for example, to meet per diem and expenditure limits). Reimbursements will be processed in accord with applicable federal regulation.

#### 10) Agency reporting requirements

a) The Ethics Officer is responsible for:

- (1) supplying a report on the acceptance of outside funds to the Director of the Office of Government Ethics, in compliance with 41 C.F.R. § 304-1.9;
- (2) keeping records of funding under this authority as required in 5 C.F.R. § 410.706, and for assisting in the Agency's annual report to the Office of Personnel Management on training by completing a Contributions and Awards Report (OPM Form 1307); and
- (3) assisting the Procurement Division with creating an agency report on the acceptance of foreign funding for travel in compliance with 5 U.S.C. § 7342(f).

## **XIX) PROCUREMENT INTEGRITY (41 U.S.C. § 423; 48 C.F.R. § 3.104)**

### **1) Restrictions on Offers of Employment**

An official who is participating personally and substantially in a Federal agency procurement, as those terms are defined in 48 C.F.R. § 3.104-3 (procurement integrity regulations), for a contract in excess of the simplified acquisition threshold, and who contacts or is contacted by a person who is a bidder or offeror in that procurement regarding possible employment must report the contact in writing to his or her supervisor and the Ethics Officer and reject the possibility of employment, *or* disqualify himself or herself from further personal and substantial participation in the procurement until so notified by the Agency. Participation may resume on the grounds that the person is no longer a bidder or offeror in the procurement or discussions with the bidder or offeror regarding possible employment have terminated without arrangements for employment.

### **2) Post-Employment Restrictions**

Generally speaking, a former employee of the Agency is prohibited from accepting compensation from a contractor as an employee, officer, director, or consultant for a period of one year after the employee participated in the selection of a contract or award in excess of \$10,000,000. Employees who believe they have participated in such a contract, and wish to accept employment from a contractor are advised to consult the Ethics Officer and/or their supervisors for an appropriate determination as to whether the employment would be permissible.

### **3) Confidentiality of Information**

Present or former employees, or persons acting or who have acted on behalf of, or who are advising or who have advised the U.S., are prohibited from knowingly disclosing information relating to contractor bids, proposals, or source selection before the award of a procurement contract to which the information relates. Such persons are also prohibited from knowingly obtaining such information before the award of the procurement contract to which the information relates.

